

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 08-10352-MLW
)	
RICHARD SCHWARTZ,)	
Defendant)	

**GOVERNMENT’S SUPPLEMENTAL FILING IN OPPOSITION
TO DEFENDANT’S EMERGENCY MOTION TO STAY SENTENCE**

The government respectfully files herewith the Affidavit of Special Agent Christina Rosen (“Affidavit”)(attached), which outlines relevant additional information for the Court’s consideration of Defendant’s Emergency Motion to Stay Sentence (“Emergency Motion”) (Docket No. 155). The government submits that the additional information, namely, that the Defendant manufactured the fraudulent license at issue in the revocation proceeding, Affidavit at ¶ 4, and that he has the ability to continue to manufacture fraudulent licenses, id. at n.4, goes directly to the issue of whether Defendant poses a danger to the community. The Affidavit also shows that the making of the fraudulent license was not approved by the Defendant’s employer, the state of Wisconsin, or for work purposes. Id. at ¶¶ 4, 6. Finally, the Affidavit shows the Defendant should not have been in possession of those licenses he submitted to the Court as exhibits. Id. at ¶ 5. Furthermore, as the government continues to investigate this matter, it appears that, in addition to violations of state law, the Defendant has also violated Sections 1028 and possibly 1028A of 18 United States Code.

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/ Eugenia M. Carris
Eugenia M. Carris
Assistant U.S. Attorney

Dated: September 25, 2014

Certificate of Service

I hereby certify that, on the above date, this document was filed through the ECF system which sends copies electronically to the registered participants.

By: /s/ Eugenia M. Carris
Eugenia M. Carris
Assistant U.S. Attorney

AFFIDAVIT

I, Christina Rosen, hereby depose and state as follows under pains and penalties of perjury:

1. I am a Special Agent with the U.S. Department of Labor (“DOL”), Office of Inspector General (“OIG”) (together, “DOL/OIG”). I have been so employed since October of 2007. I make this affidavit in support of the Government’s opposition to the Emergency Motion of Richard Schwartz (the “Defendant”) to Stay Sentence.

2. My duties with DOL/OIG include investigating allegations of fraud regarding DOL programs. As such, in and around 2008, I was involved in the investigation of H-1B visa fraud allegations wherein IT staffing companies arranged and/or purchased fraudulently produced employment letters from the Defendant on Commonwealth of Massachusetts letterhead. These fraudulent letters were provided to the U.S. Consulate in an effort to have H-1B visas approved under false pretenses that the beneficiaries had employment with the Commonwealth of Massachusetts. On November 22, 2010, the Defendant pled guilty to one count of conspiracy to commit visa fraud in violation of Title 18 United States Chapter 371. On April 25, 2012, the Defendant was sentenced to serve 3 years Probation. On March 27, 2014, the Defendant was sentenced to serve 15 days at the Middlesex Jail for failing to pay approximately \$3,700 in outstanding attorney fees related to a Divorce matter. When the Defendant was processed at the jail, it was identified that the Defendant had two driver’s licenses in his possession: Massachusetts and Wisconsin. The Massachusetts driver’s license was in the Defendant’s name and possessed a photograph of the Defendant. The Wisconsin driver’s license was in the name of John Slack and possessed a photograph of the Defendant. Around the time of the revocation hearing and resentencing of the Defendant, the United States Attorney’s Office

contacted the Homeland Security Investigations' Document and Benefit Fraud Task Force ("DBFTF") in regards to the Defendant's possession and suspected production of the fraudulent Wisconsin driver's license. Because our investigations often implicate offenses investigated by other agencies, I am part of the DBFTF, which comprises agents from Homeland Security Investigations ("HSI"), DOL/OIG, as well as other agencies.

3. Prior to the revocation of the Defendant's probation, the Defendant's employer was MorphoTrust USA ("MorphoTrust") in Billerica, Massachusetts. According to MorphoTrust's website,¹ "MorphoTrust is the only company to deliver complete motor vehicle agency (MVA) solutions covering all major business practices and services across the agency. We are the preferred partner for 42 states, with solutions that produce the highly secure driver licenses and IDs your customers rely on each day to enjoy a wide range of benefits and privileges, like establishing credit, opening a bank account, obtaining a job or professional license, voting, boarding a plane or driving a vehicle".

4. In the course of investigating this matter, I spoke with MorphoTrust's Chief Security Officer ("CSO"), Dennis Kallelis. Mr. Kallelis explained that MorphoTrust's security team had recently completed a two week review of the Defendant's activity at the company, to include, but not limited to, the review of the Defendant's electronic research, emails, files, file server and ribbons on the license printers. MorphoTrust's investigation determined the following:

¹ <http://www.morphotrust.com/>

- On November 16, 2012, the John Slack Wisconsin driver's license was created and printed at test lab.² MorphoTrust's records identified that the Defendant attempted to produce the John Slack Wisconsin driver's license at least two times.³ The Defendant successfully produced the John Slack Wisconsin driver's license on the third attempt.
- Typos on the John Slack Wisconsin driver's license and the presence of just two rather than three photographs further identify that the driver's license was produced in test lab.
- The key card access records and the print record show that, within +/- 5 minutes of each attempt to create a John Slack's Wisconsin driver's license, the Defendant's key card electronically opened the door that yields access to the printer's location.
- No additional fraudulent driver's licenses were identified as being produced by the Defendant at the test lab or central factories.⁴
- On August 12, 2014, the Defendant sent an email to his contact at the Wisconsin Department of Motor Vehicles asking for a memo from the state of Wisconsin stating that the Defendant needs to have the Wisconsin driver's license for the Defendant's job. The contact at the Wisconsin Department of Motor Vehicles informed the Defendant that this is a legal issue and therefore needs to be taken up with management.

5. MorphoTrust regulations never allow employees to use real people's names and biographical information to produce sample driver's licenses. As part of the job, the Defendant

² MorphoTrust has two types of locations that can produce driver's licenses: central factories and the test lab in Billerica, Massachusetts.

³ MorphoTrust stated that the multiple attempts at production can often occur when attempting to get the positioning and layering correct on the license.

⁴ The Defendant continues to possess MorphoTrust property/equipment, to include, but not limited to, two laptops and administrator keys. MorphoTrust has shut down the laptops and administrator keys remotely. On September 8, 2014, MorphoTrust issued a termination letter ordering the Defendant to return all company owned property/equipment immediately. The Defendant has yet to return MorphoTrusts' property/equipment. MorphoTrust stated that if the Defendant were to obtain a specific type printer, the Defendant would be able to, with the use of MorphoTrusts property/equipment, produce fraudulent licenses.

would be required to print sample license on a regular basis to aid in setting up the machines. However, MorphoTrust further stated that all sample driver's licenses must include the word SAMPLE on the licenses, and use designated sample names and photographs (i.e. famous people, models, cartoons). MorphoTrust regulations require all sample driver's licenses are to be destroyed and employees are never allowed to carry them on their person.

6. MorphoTrust requires employees undergo a significant amount of continuous training addressing that stresses that employees are not allowed to use the state databases to query information for personal use. MorphoTrust employees are only allowed to access the state databases upon request by a particular state or MorphoTrust. MorphoTrust stated the Defendant was not requested by Wisconsin or MorphoTrust to access Wisconsin's database.

7. MorphoTrust stated that when they hired the Defendant in 2009, the background check on the Defendant would have only included convictions and not charges and/or arrests. As such, MorphoTrust was not aware of the Defendant's conviction and subsequent probation until Wisconsin contacted MorphoTrust regarding the Defendant's possession of the John Slack driver's license. MorphoTrust stated the Defendant, when he was ordered to serve 15 days at Middlesex jail, requested sick leave. MorphoTrust stated the Defendant was then out on vacation time and then was out on sick leave again. MorphoTrust stated the Defendant produced a doctor's note to support the sick leave. MorphoTrust stated in June of 2010, the Defendant requested to restrict his travel to local travel. MorphoTrust stated the Defendant gave conflicting reasons for this request, stating to one manager that it was the Defendant's wife's request due to family obligations and to another manager that it was based on the Defendant's health issues.

8. MorphoTrust stated the Defendant never informed anyone at MorphoTrust that he was convicted, serving probation and/or that his probation was in jeopardy or had been revoked.

Signed under the pains and penalties of perjury on this ^{25th} date of September 2014.



CHRISTINA ROSEN
Special Agent, DOL/OIG